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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAUL BENSI, BART FLORENCE, JERRY
KALMAR, and LYLE SETTER, in their
capacities as Trustees of the STATIONARY
ENGINEERS LOCAL 39 PENSION TRUST
FUND,

Plaintiffs,

v.

EDEN MEDICAL CENTER, a California
Corporation

Defendant.

No. C 11-4008 JSW

**STIPULATED REQUEST TO
CONTINUE ADR, DISCOVERY AND
DISPOSITIVE MOTION DEADLINES;
~~PROPOSED~~ ORDER**

Pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure and Civil Local Rules 7-12 and 16-2, Plaintiffs and Defendants, by and through the undersigned counsel, respectfully request that the ADR deadlines, discovery deadlines, dispositive motion hearing date and related deadlines be continued for ninety (90) days to allow the parties additional time for Defendant to

1 provide the documents necessary to complete the payroll compliance testing audit (“Audit”) that
 2 is the subject of this litigation and to discuss a possible resolution of this action without the
 3 necessity of further litigation, time and expense.

4 At the heart of this lawsuit is a dispute about the proper scope of an audit of Defendant’s
 5 financial records to confirm that the Defendant has made the required contributions to the
 6 Stationary Engineers Local 39 Pension Trust Fund (“Trust Fund”). Plaintiffs, who are the
 7 Trustees of the Trust Fund, have contended that the collective bargaining agreement to which
 8 Defendant is a party entitles the Trust Fund’s auditors access to Defendant’s cash disbursement
 9 journals. Defendant has contended that because its cash disbursement journals are kept on a
 10 region-wide basis, it is unable to produce the information without producing extensive financial
 11 information from its affiliates. Additionally, because the journals contain all payment
 12 information, they necessarily contain payroll information of non-Local 39 members and well as
 13 information about payments to patients. In response to Defendant’s concern, the Trust Fund
 14 agreed to accept a vendor list in lieu of the cash disbursement journals, as well as reserving the
 15 right to review additional documents following the auditor’s review of the Defendant’s vendor
 16 list.

17 The parties agreed to proceed with the audit in this manner, which satisfies the auditors’
 18 need for complete documentation and Defendant’s need to protect the financial privacy of third-
 19 parties and to avoid producing irrelevant financial documentation. To facilitate the completion of
 20 the audit, Defendant is in the process of collecting invoices received from outside contractors who
 21 performed maintenance or light construction-type work at the hospital between January 1, 2006 to
 22 March 31, 2010. Because these invoices are old, they are stored off-site. Defendant is in the
 23 process of retrieving them and anticipates that it will take approximately one month to complete
 24 the process. Once the documents have been retrieved, Defendant will provide them to the Trust
 25 Fund’s auditors for review. The auditors will then be able to determine if Defendant has made all
 26 of the required contributions to the Trust Fund.

27 Although the parties have been diligent in working towards a resolution of this matter,
 28 they need additional time so that the Audit can be completed. Consequently, the parties will not

be able to complete mediation before the current mediation deadline of June 8, 2012. Additionally, if Plaintiffs need additional documents or information following Defendant's informal production at the end of June, they will not be able to propound discovery requests prior to the close of fact discovery on July 16, 2012. Accordingly, the parties are requesting a continuance of the ADR deadlines, discovery deadlines, and dispositive motion hearing date and related deadlines to allow the parties additional time to complete the Audit and discuss a resolution of this matter. The parties have not previously requested any extensions of the deadlines set forth in the Court's Scheduling Order.

In light of the foregoing, the parties respectfully request that the Court modify its Scheduling Order as follows:

1. ADR deadline: September 6, 2012;
2. Close of fact discovery: October 15, 2012;
3. Last day for Expert Disclosure: October 29, 2012
4. Close of Expert Discovery: November 13, 2012;
5. Opening motion for summary judgment to be filed: November 21, 2012;
6. Opposition and cross-motion due by: December 7, 2012;
7. Reply and opposition to the cross-motion due by: December 21, 2012;
8. Reply in support of the cross-motion due by: December 28, 2012;
9. Hearing on dispositive motions (if any): January 25, 2013 at 9:00 a.m.

Dated: June 7, 2012

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/ Linda Baldwin Jones
LINDA BALDWIN JONES
Attorneys for Plaintiffs

Dated: June 7, 2012

WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP

By: /s/ Donald P. Sullivan
DONALD P. SULLIVAN
Attorneys for Defendant

[PROPOSED] ORDER

FOR GOOD CAUSE SHOWING, the Court orders that the case scheduling order shall be modified as follows:

1. ADR deadline: September 6, 2012;
2. Close of fact discovery: October 15, 2012;
3. Last day for Expert Disclosure: October 29, 2012
4. Close of Expert Discovery: November 13, 2012;
5. Opening motion for summary judgment to be filed: November 21, 2012;
6. Opposition and cross-motion due by: December 7, 2012;
7. Reply and opposition to the cross-motion due by: December 21, 2012;
8. Reply in support of the cross-motion due by: December 28, 2012;
9. Hearing on dispositive motions (if any): January 25, 2013 at 9:00 a.m.

All other aspects of the Court's scheduling order not specifically modified above shall remain in full force and effect. In addition the Court orders:

Dated: ~~June~~ ^{July 9} 2012



THE HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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